



City Council Chambers
3300 Capitol Avenue
Fremont, California

City Council

Bob Wasserman, Mayor
Bob Wieckowski, Vice Mayor
Anu Natarajan
Bill Harrison
Suzanne Lee Chan

City Staff

Fred Diaz, City Manager
Harvey E. Levine, City Attorney
Melissa Stevenson Dile, Assistant City Manager

Dawn G. Abrahamson, City Clerk
Harriet Commons, Finance Director
Marilyn Crane, Information Technology Svcs. Dir.
Mary Kaye Fisher, Interim Human Resources Dir.
Annabell Holland, Parks & Recreation Dir.
Norm Hughes, City Engineer
Jill Keimach, Community Dev. Director
Bruce Martin, Fire Chief
Jim Pierson, Transportation & Ops Director
Jeff Schwob, Planning Director
Suzanne Shenfil, Human Services Director
Craig Steckler, Chief of Police
Lori Taylor, Economic Development Director
Elisa Tierney, Redevelopment Director

City Council Agenda and Report [Redevelopment Agency of Fremont]

General Order of Business

1. Preliminary
 - Call to Order
 - Salute to the Flag
 - Roll Call
2. Consent Calendar
3. Ceremonial Items
4. Public Communications
5. Scheduled Items
 - Public Hearings
 - Appeals
 - Reports from Commissions, Boards and Committees
6. Report from City Attorney
7. Other Business
8. Council Communications
9. Adjournment

Order of Discussion

Generally, the order of discussion after introduction of an item by the Mayor will include comments and information by staff followed by City Council questions and inquiries. The applicant, or their authorized representative, or interested citizens, may then speak on the item; each speaker may only speak once to each item. At the close of public discussion, the item will be considered by the City Council and action taken. Items on the agenda may be moved from the order listed.

Consent Calendar

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address the City Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.



Addressing the Council

Any person may speak once on any item under discussion by the City Council after receiving recognition by the Mayor. Speaker cards will be available prior to and during the meeting. To address City Council, a card must be submitted to the City Clerk indicating name, address and the number of the item upon which a person wishes to speak. When addressing the City Council, please walk to the lectern located in front of the City Council. State your name. In order to ensure all persons have the opportunity to speak, a time limit will be set by the Mayor for each speaker (see instructions on speaker card). In the interest of time, each speaker may only speak once on each individual agenda item; please limit your comments to new material; do not repeat what a prior speaker has said.

Oral Communications

Any person desiring to speak on a matter which is not scheduled on this agenda may do so under the Oral Communications section of Public Communications. Please submit your speaker card to the City Clerk prior to the commencement of Oral Communications. **Only those who have submitted cards prior to the beginning of Oral Communications will be permitted to speak.** Please be aware the California Government Code prohibits the City Council from taking any immediate action on an item which does not appear on the agenda, unless the item meets stringent statutory requirements. The Mayor will limit the length of your presentation (see instructions on speaker card) and each speaker may only speak once on each agenda item.

To leave a voice message for all Councilmembers and the Mayor simultaneously, dial 284-4080.

The City Council Agendas may be accessed by computer at the following Worldwide Web Address: www.fremont.gov

Information

Copies of the Agenda and Report are available in the lobbies of the Fremont City Hall, 3300 Capitol Avenue and the Development Services Center, 39550 Liberty Street, on Friday preceding a regularly scheduled City Council meeting. Supplemental documents relating to specific agenda items are available at the Office of the City Clerk.

The regular meetings of the Fremont City Council are broadcast on Cable Television Channel 27 and can be seen via webcast on our website (www.Fremont.gov).

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the City Clerk at (510) 284-4060. Council meetings are *open captioned* for the deaf in the Council Chambers and *closed captioned* for home viewing.

Availability of Public Records

All disclosable public records relating to an open session item on this agenda that are distributed by the City to all or a majority of the City Council less than 72 hours prior to the meeting will be available for public inspection in specifically labeled binders located in the lobby of Fremont City Hall, 3300 Capitol Avenue during normal business hours, at the time the records are distributed to the City Council.

Information about the City or items scheduled on the Agenda and Report may be referred to:

Address: City Clerk
City of Fremont
3300 Capitol Avenue, Bldg. A
Fremont, California 94538
Telephone: (510) 284-4060

Your interest in the conduct of your City's business is appreciated.

**NOTICE AND AGENDA OF SPECIAL MEETING
CLOSED SESSION
CITY COUNCIL OF THE CITY OF FREMONT**

DATE: Tuesday, July 6, 2010

TIME: 6:30 p.m.

LOCATION: Fremont Room, 3300 Capitol Avenue, Fremont-

The City will convene a special meeting. It is anticipated the City will immediately adjourn the meeting to a closed session to confer with and receive advice from its attorney regarding existing litigation in two matters, as follows:

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

This Closed Session is authorized by subdivision (a) of Section 54956.9 of the Government Code and will pertain to existing litigation in two matters.

David Pine v. City of Fremont, Robert Wheeler, Hayward Superior Court Case #HG08376309

and

Cynthia Walentiny v. Fernandes, City of Fremont, et al., Pleasanton Superior Court Case # VG10506365

This Special Meeting is being called by Mayor Wasserman.

AGENDA
FREMONT CITY COUNCIL REGULAR MEETING
JULY 6, 2010
COUNCIL CHAMBERS, 3300 CAPITOL AVE., BUILDING A
7:00 P.M.

1. PRELIMINARY

- 1.1 Call to Order
- 1.2 Salute the Flag
- 1.3 Roll Call
- 1.4 Announcements by Mayor / City Manager

2. *CONSENT CALENDAR*

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which event the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.

- 2.1 *Motion to Waive Further Reading of Proposed Ordinances
(This permits reading the title only in lieu of reciting the entire text.)*
- 2.2 *Approval of Minutes – for the Regular Meetings of January 6, 2009 and April 28, 2009, and the Regular and Special Meetings of June 9, 2009*
- 2.3 *Second Reading and Adoption of an Ordinance of the City of Fremont Rezoning Property Located at 4511 Peralta Boulevard from Planned District P-2005-73(CSPC) to Multi-Family Residence R-3-15(CSPC)*

RECOMMENDATION: Adopt ordinance.

2.4 BIENNIAL REVIEW OF THE CITY OF FREMONT CONFLICT OF INTEREST CODE

Review Conflict of Interest Code and Authorize the Execution of the Biennial Review Notice

Contact Person:

Name:	<i>Dawn G. Abrahamson</i>	<i>Melissa Stevenson Dile</i>
Title:	<i>City Clerk</i>	<i>Deputy City Manager</i>
Dept.:	<i>City Clerk</i>	<i>City Manager</i>
Phone:	<i>510-284-4063</i>	<i>510-284-4005</i>
E-Mail:	<i>dabrahamson@fremont.gov</i>	<i>mdile@fremont.gov</i>

RECOMMENDATION: *Direct staff to review the conflict of interest code and authorize execution of the Biennial Review Notice regarding whether amendments are required, not later than October 1, 2010*

2.5 GENERAL MUNICIPAL ELECTION – NOVEMBER 2, 2010

City of Fremont General Municipal Consolidated Election, Tuesday, November 2, 2010

Contact Person:

Name:	<i>Dawn G. Abrahamson</i>	<i>Melissa Stevenson Dile</i>
Title:	<i>City Clerk</i>	<i>Assistant City Manager</i>
Dept.:	<i>City Clerk</i>	<i>City Manager's Office</i>
Phone:	<i>510-284-4060</i>	<i>510-284-4060</i>
E-Mail:	<i>dabrahamson@ci.fremont.ca.us</i>	<i>mdile@ci.fremont.ca.us</i>

RECOMMENDATION: *Adopt a resolution that:*

- 1. Calls for the General Municipal Election.*
- 2. Requests the services of the Alameda County Registrar of Voters to conduct the election on behalf of the City of Fremont.*
- 3. Calls for a Special Election to be conducted in the case of a tie vote for the elected officers as a result of the November 2, 2010 election.*
- 4. Limits the candidate statement to be published in the Voter Sample Ballot to a maximum of two hundred (200) words, and requires a candidate to make a deposit of \$2,050 to pay for costs at the time his/her nomination papers are filed.*
- 5. Allows for rebuttals for the arguments in favor and the arguments in opposition for each ballot measure*

2.6 **WASHINGTON BOULEVARD/PASEO PADRE PARKWAY GRADE SEPARATION PROJECT – PROJECT MANAGEMENT AGREEMENT AMENDMENT**

Approval of a Seventh Amendment to the Professional Services Agreement with Abtahi Engineering Management Consultants for \$75,000 for Continued Project Management Services for the Washington Boulevard/Paseo Padre Parkway Grade Separation Project PWC 8156

Contact Person:

Name: Jim Pierson
Title: Director
Dept.: Transportation & Operations
Phone: 510-494-4722
E-Mail: jpierson@fremont.gov

RECOMMENDATION: *Authorize the City Manager or his designee to execute Amendment Number Seven to the Service Agreement for Grade Separation Project Management Services with Abtahi Engineering Management Consultants in an amount not to exceed \$75,000*

2.7 **WASHINGTON BOULEVARD / PASEO PADRE PARKWAY GRADE SEPARATION CONSTRUCTION MANAGEMENT CONTRACT AMENDMENT**

Approval of Amendment No. 2 to the Service Agreement with S&C Engineers, Inc., for \$120,000 for Construction Management Services for the Washington Boulevard / Paseo Padre Parkway Grade Separation

Contact Person:

Name:	Afshin Abtahi	Jim Pierson
Title:	Project Manager	Director
Dept.:	Transportation & Operations	Transportation & Operations
Phone:	510-494-4724	510-494-4722
E-Mail:	aabtahi@fremont.gov	jpierson@fremont.gov

RECOMMENDATION: *Authorize the City Manager or his designee to execute a service agreement amendment with S&C Engineers, Inc., for additional construction management services in an amount of \$120,000, for a new not-to-exceed contract total of \$8,921,209*

2.8 **AGREEMENT WITH THE COUNTY OF ALAMEDA REGARDING COLLECTION OF TAXES AND ASSESSMENTS FOR FISCAL YEAR 2010/11**

Approval of Certification and Mutual Indemnification Agreement with the County of Alameda Regarding Collection of Taxes and Assessments on the Fiscal Year 2010/11 Secured Property Tax Bill

Contact Person:

<i>Name:</i>	<i>Joan A. Borger</i>	<i>Harvey E. Levine</i>
<i>Title:</i>	<i>Assistant City Attorney</i>	<i>City Attorney</i>
<i>Dept.:</i>	<i>City Attorney's Office</i>	<i>City Attorney's Office</i>
<i>Phone:</i>	<i>510-284-4030</i>	<i>510-284-4030</i>
<i>E-Mail:</i>	<i>jborger@fremont.gov</i>	<i>hlevine@fremont.gov</i>

RECOMMENDATION: Adopt resolution approving the certification and mutual indemnification agreement with the County of Alameda, and authorize the City Attorney to sign the agreement on behalf of the City

2.9 ASPHALT AND CONCRETE MATERIALS TESTING CONSULTANT SERVICES CONTRACT FOR 2010 ASPHALT OVERLAY PROJECT

Award Contract for Asphalt and Concrete Materials Testing Consultant Services for 2010 Asphalt Overlay Project to Kleinfelder West, Inc.

Contact Person:

<i>Name:</i>	<i>Craig Covert</i>	<i>Norm Hughes</i>
<i>Title:</i>	<i>Associate Civil Engineer</i>	<i>City Engineer</i>
<i>Dept.:</i>	<i>Community Development</i>	<i>Community Development</i>
<i>Phone:</i>	<i>510-494-4785</i>	<i>510-474-4748</i>
<i>E-Mail:</i>	<i>ccovert@fremont.gov</i>	<i>nhughes@fremont.gov</i>

RECOMMENDATION: Authorize the City Manager or his designee to execute a Master Service Agreement with Kleinfelder West, Inc., for asphalt and concrete materials testing consultant services for the 2010 Asphalt Overlay Project in an amount not to exceed \$250,000

2.10 FREMONT MAIN LIBRARY REROOF PROJECT CONTRACT AWARD

Approval of Plans and Specifications and Award of Contract to the Lowest Responsible Bidder for the Fremont Main Library Reroof Project, City Project No. PWC 8712

Contact Person:

<i>Name:</i>	<i>Robert Kalkbrenner</i>	<i>Dan Schoenholz</i>
<i>Title:</i>	<i>Civic Facilities Development Services Manager</i>	<i>Policy and Special Projects Manager</i>
<i>Dept.:</i>	<i>Community Development</i>	<i>Community Development</i>
<i>Phone:</i>	<i>510-494-4428</i>	<i>510-494-4438</i>
<i>E-Mail:</i>	<i>rkalkbrenner@fremont.gov</i>	<i>dschoenholz@fremont.gov</i>

RECOMMENDATIONS:

- 1. Find that this project is categorically exempt from CEQA per section 15301, existing facilities.*
- 2. Approve Plans and Specifications for the Fremont Main Library Reroof Project.*
- 3. Award a contract for the Fremont Main Library Reroof Project (City Project No. PWC 8712) to Best Contracting Services, Inc., in the amount of \$874,795; and authorize the City Manager, or designee, to execute the contract.*

2.11 2010 ASPHALT OVERLAY PROJECT CONTRACT AWARD

Approval of Plans and Specifications and Award of Contract to the Lowest Responsible Bidder for the 2010 Asphalt Overlay, City Project No. 8234-J (PWC)

Contact Person:

Name:	<i>Craig Covert</i>	<i>Norm Hughes</i>
Title:	<i>Associate Civil Engineer</i>	<i>City Engineer</i>
Dept.:	<i>Community Development</i>	<i>Community Development</i>
Phone:	<i>510- 494-4785</i>	<i>510-474-4748</i>
E-Mail:	<i>ccover@fremont.gov</i>	<i>nhughes@fremont.gov</i>

RECOMMENDATIONS:

- 1. Approve the plans and specifications for 2010 Asphalt Overlay, City Project No. 8234-J (PWC).*
- 2. Accept the bid and award the construction contract for 2010 Asphalt Overlay, 8234-J (PWC) to the lowest responsible bidder, Gallagher and Burk, Inc., in the amount of \$5,093,093 and authorize the City Manager or designee to execute the contract.*
- 3. Appropriate CIWMB rubberized asphalt concrete grant funds in the amount of \$194,080 to 525 PWC8234 (Street Overlay Program)*

2.12 EAST BAY REGIONAL PARK DISTRICT HOLD HARMLESS AGREEMENT

Authorize City Manager to Execute a Hold Harmless Agreement To Allow The Fire Department To Use East Bay Regional Park District Property For Training Purposes

Contact Person:

Name:	<i>Ron Maize</i>	<i>Bruce Martin</i>
Title:	<i>Deputy Fire Chief</i>	<i>Fire Chief</i>
Dept.:	<i>Fire</i>	<i>Fire</i>
Phone:	<i>510-494-4253</i>	<i>510-494-4200</i>
E-Mail:	<i>rmaize@fremont.gov</i>	<i>bmartin@fremont.gov</i>

RECOMMENDATION: *Authorize the City Manager to execute the Hold Harmless Agreement with the East Bay Regional Bay Park District*

3. CEREMONIAL ITEMS

- 3.1** Resolution: Acknowledging Ethan Jose and Internetting Family Volunteers for their Volunteer Service in Establishing a Curriculum for Seniors to Learn the Benefits of the Internet
- 3.2** Proclamation: Excellent Recycling Practices Contest

4. PUBLIC COMMUNICATIONS

- 4.1** Oral and Written Communications

REDEVELOPMENT AGENCY – The Redevelopment Agency Board will convene at this time and take action on the agenda items listed on the Redevelopment Agency Agenda. See separate agenda (yellow paper).

PUBLIC FINANCING AUTHORITY – None.

CONSIDERATION OF ITEMS REMOVED FROM CONSENT CALENDAR

5. SCHEDULED ITEMS – None.

5.1 PROPOSAL FOR REGIONAL PENSION REFORM

Information regarding the Proposal for Regional Pension Reform from the Alameda County City Managers Association and the Contra Costa County Public Managers Association

Contact Person:

Name:	Mary Kaye Fisher	Melissa Stevenson Dile
Title:	Interim Director	Assistant City Manager
Dept.:	Human Resources	City Manager's Office
Phone:	510-494-4664	510-284-4005
E-Mail:	mkfisher@fremont.gov	mdile@fremont.gov

RECOMMENDATION: For Council Discussion

6. REPORT FROM CITY ATTORNEY

6.1 Report Out from Closed Session of Any Final Action

7. OTHER BUSINESS – None.

8. COUNCIL COMMUNICATIONS

8.1 Council Referrals

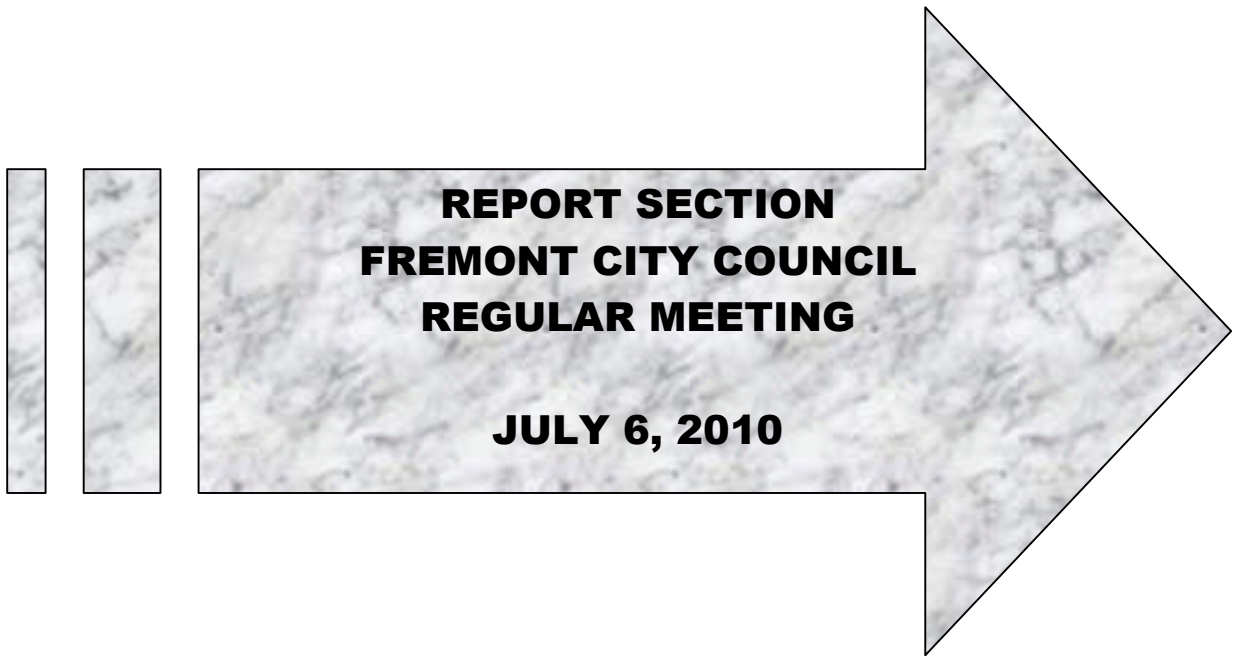
8.1.1 MAYOR WASSERMAN REFERRAL: Appointment of Ira Bletz to the George W. Patterson House Advisory Board

8.1.2 MAYOR WASSERMAN REFERRAL: Appointment of Peggy Kraus to the Economic Development Advisory Commission

8.1.3 MAYOR WASSERMAN REFERRAL: Update to Council Assignments to
Outside Commissions, Committees, or Boards

8.2 Oral Reports on Meetings and Events

9. ADJOURNMENT



**REPORT SECTION
FREMONT CITY COUNCIL
REGULAR MEETING**

JULY 6, 2010

***2.3 Second Reading and Adoption of an Ordinance of the City of Fremont Rezoning Property Located at 4511 Peralta Boulevard from Planned District P-2005-73(CSPC) to Multi-Family Residence R-3-15(CSPC)**

ENCLOSURE: [Draft Ordinance](#)

RECOMMENDATION: Adopt ordinance.

***2.4 BIENNIAL REVIEW OF THE CITY OF FREMONT CONFLICT OF INTEREST CODE**
Review Conflict of Interest Code and Authorize the Execution of the Biennial Review Notice

Contact Person:

Name:	Dawn G. Abrahamson	Melissa Stevenson Dile
Title:	City Clerk	Deputy City Manager
Dept.:	City Clerk	City Manager
Phone:	510-284-4063	510-284-4005
E-Mail:	dabrahamson@fremont.gov	mdile@fremont.gov

Note: A companion item appears on the Fremont Redevelopment Agency (RDA) agenda.

Executive Summary: The purpose of this report is to request City Council to direct staff to review the conflict of interest code and authorize execution of the Biennial Review Notice regarding whether amendments are required, not later than October 1, 2010.

BACKGROUND: The Political Reform Act requires every local government agency to review its conflict of interest code of designated positions and reporting categories, every two years to determine if it is accurate, or alternatively, to determine if the code must be amended. No later than July 1 of each even-numbered year, the code reviewing body (the City Council) must notify their jurisdiction to review its conflict of interest code, and by October 1, a Biennial Report Notice must be filed with the Fair Political Practices Commission (FPPC). If revisions are required, they must be reviewed and adopted within ninety days.

The City Council last amended the Fremont Conflict of Interest Code in October of 2008. Since that time, changes in the City staff organizational structure and responsibilities have changed and a review of the disclosure categories and amendments are necessary to include new positions and revise titles of existing positions to reflect these changes.

The City Clerk with participation from the City Attorney's Office will make recommendations to the Council regarding amendments to the Code. Staff anticipates returning to Council in 90 days for review and adoption of the updated Conflict of Interest Codes for the City of Fremont and the Redevelopment Agency.

FISCAL IMPACT: N/A

ENCLOSURE: None

RECOMMENDATION: Direct staff to review the conflict of interest code and authorize execution of the Biennial Review Notice regarding whether amendments are required, not later than October 1, 2010.

***2.5 GENERAL MUNICIPAL ELECTION – NOVEMBER 2, 2010**
City of Fremont General Municipal Consolidated Election, Tuesday, November 2, 2010

Contact Person:

Name:	Dawn G. Abrahamson	Melissa Stevenson Dile
Title:	City Clerk	Assistant City Manager
Dept.:	City Clerk	City Manager's Office
Phone:	510-284-4060	510-284-4060
E-Mail:	dabrahamson@ci.fremont.ca.us	mdile@ci.fremont.ca.us

Executive Summary: The City Clerk as the Elections Official has prepared a resolution for City Council consideration relating to the General Municipal Consolidated Election to be held on Tuesday, November 2, 2010. At that election, there will be two City Councilmembers elected to fill the four-year term seats of Councilmember Natarajan and Councilmember Harrison, whose terms end in December 2010. The City Council is asked to adopt the resolution once it has determined the resolution's provisions as discussed below. In the event one or more ballot measures are to be considered at that election, notice of the proposed ballot measure(s) will be presented to Council for its consideration at a future meeting date.

BACKGROUND: The City of Fremont holds its general municipal election on the same day as the statewide general election, which is the first Tuesday after the first Monday in November of each even-numbered year. This year the date is November 2, 2010. The election will be consolidated with the Alameda County statewide election, and the Alameda County Registrar of Voters will be asked to conduct the election on behalf of the City of Fremont. In order to initiate the administration of the election as required in the Elections Code, the Council will need to provide direction regarding several issues as described below.

Staff is requesting City Council consideration of a resolution for the administration of the General Municipal Consolidated Election. Once adopted, the resolution will be forwarded to the Clerk of the Board of Supervisors for the Board's approval, with a copy to the Registrar of Voters. The elements of the resolution include the following:

- 1. The official calling of the election.**
The California Elections Code provides that the Council shall call and order a General Municipal Election for the purpose of electing two members of the City Council for the full term of four years.
- 2. Requesting the services of the Alameda County Board of Supervisors and Registrar of Voters to conduct the election on behalf of the City of Fremont.**
The Elections Code provides that the City Council may, by resolution, request the Board of Supervisors of the County to permit the County Elections Official to render specified services to the City relating to the conduct of an election, and that the City will reimburse the County for services performed.

3. **Establishing the procedures in the event of a tie vote for the elected office positions.**

The Elections Code provides that a special runoff election may be held for resolving a tie vote, provided that the City Council adopts the provisions for a special runoff election prior to the conduct of the election resulting in the tie vote. Staff is recommending this provision. In lieu of this option, the only other provision for resolving a tie is for the Secretary of State to determine the tie by lot.

4. **Determining the number of words permitted for the candidate statement.**

The Elections Code provides that the City Council will adopt regulations pertaining to the statement prepared by any candidate for the municipal election and to provide the estimate of the costs of such statement. The statement may include the name, age and occupation of the candidate and a brief description of no more than 200 words or 400 words about the candidate's education and qualifications as expressed by the candidate. A 200-word statement will be a one-half sheet in the voter sample ballot. Historically, the City of Fremont selects the 200-word limit for a candidate statement, and staff recommends this word limit for this election. The candidate is required to pay for the costs of printing, translating and mailing the candidate statement and is required to make a deposit at the time his/her nomination papers are filed. Staff is recommending a deposit in the amount of \$2,050 to cover estimated costs related to candidate statements for the November 2, 2010 election. The candidate shall be refunded any overage or billed for any additional costs within 30 days of the actual accounting of said costs by the Alameda County Registrar of Voters.

5. **Determining whether rebuttal arguments to the Argument in Favor and the Argument in Opposition, which appear in the Voters Sample Ballot, will be permitted for each ballot measure.**

For each ballot measure question, the Elections Code provides the opportunity for arguments in favor and arguments in opposition to be included as a part of the Sample Ballot. The argument statements may not exceed 300 words. In addition, the Elections Code authorizes the City Council to decide whether to allow rebuttal statements to the arguments in favor and the arguments in opposition. The rebuttals may not exceed 250 words, and the filing deadline is ten days after the filing of the arguments. Staff recommends that the City Council permit rebuttals to the arguments for any November 2, 2010 election ballot measure.

FISCAL IMPACT: The FY 2010/11 Operating Budget includes an appropriation of \$100,000 to cover costs associated with this election. The Registrar's preliminary estimate for election services is between the range of \$3.50 to \$5.00 per registered voter. Fremont's current registered voter population is 93,933 and that number will fluctuate before it is certified for the November election. Based on that count, the estimated cost would be between the range of \$328,766 to \$469,665, plus other publication and printing and translation costs borne directly by the City of Fremont. As a cost comparison, the final established bill rate for the November 4, 2008 General Municipal Election was \$0.70 per registered voter. The cost savings for the November 4, 2008 General Municipal Election was directly attributed to the number of jurisdictions that shared the ballot with the City of Fremont. At the time of writing this staff report, the Alameda County Registrar of Voters is unable to ascertain how many jurisdictions will share in the cost of the November 2, 2010 ballot, which is the reason for the high preliminary cost estimate. Based on prior experience, staff believes the actual costs will be closer to the amount appropriated than to the County's estimate.

This estimate does not include additional costs associated with any ballot measures issues. Additional costs for ballot measures would be related to the additional printing and administrative costs, above the estimated base.

ENCLOSURE:

- [Draft Resolution](#)

RECOMMENDATION: Adopt a resolution that:

1. Calls for the General Municipal Election.
2. Requests the services of the Alameda County Registrar of Voters to conduct the election on behalf of the City of Fremont.
3. Calls for a Special Election to be conducted in the case of a tie vote for the elected officers as a result of the November 2, 2010 election.
4. Limits the candidate statement to be published in the Voter Sample Ballot to a maximum of two hundred (200) words, and requires a candidate to make a deposit of \$2,050 to pay for costs at the time his/her nomination papers are filed.
5. Allows for rebuttals for the arguments in favor and the arguments in opposition for each ballot measure.

***2.6 WASHINGTON BOULEVARD/PASEO PADRE PARKWAY GRADE SEPARATION PROJECT – PROJECT MANAGEMENT AGREEMENT AMENDMENT**

Approval of a Seventh Amendment to the Professional Services Agreement with Abtahi Engineering Management Consultants for \$75,000 for Continued Project Management Services for the Washington Boulevard/Paseo Padre Parkway Grade Separation Project PWC 8156

Contact Person:

Name: Jim Pierson
Title: Director
Dept.: Transportation & Operations
Phone: 510-494-4722
E-Mail: jpierson@fremont.gov

Executive Summary: The purpose of this report is to request that the City Council authorize the City Manager or his designee to approve an amendment to the professional services agreement with Abtahi Engineering Management Consultants for continued project management services to complete the closeout activities for the Washington Boulevard/Paseo Padre Parkway Grade Separation Project. The contract amendment will provide for Mr. Abtahi to extend his current project management services through the end of the Grade Separation closeout activities, currently projected to be through October 2010. The amount of the contract amendment is not to exceed \$75,000, based on the estimated need for his full time services through August and part time services thereafter.

BACKGROUND: The City entered into a professional services agreement with Abtahi Engineering Management Consultants in January 2004 to provide project management services for the grade separation project. The City Council subsequently amended this agreement six times, for a not-to-exceed contract total of \$1,873,800, to provide project management services through June 2010.

DISCUSSION/ANALYSIS: The Washington Boulevard/Paseo Padre Parkway Grade Separation Project is now essentially complete. The contractor is currently completing the final “punch list” items (correcting or completing minor contract items determined by the City) and completing additional project closure items requested by the City, such as additional fencing to ensure the project is in the best condition possible when the City takes over the project maintenance from the contractor. The contractor is expected to complete these items by the end of July. The contract will remain open until the middle of September, when the plant establishment period ends for the project landscaping. The contract will then be closed out.

In addition to these activities, the City still requires Mr. Abtahi’s services for several important closeout tasks. For example, Mr. Abtahi will be assisting with the completion of the project right-of-way exchanges between the City and Union Pacific Railroad, as well as those between the City and BART. He will oversee the final payment and closeout of more than a dozen agreements with utility companies and other public entities, the closure of environmental permits, and the closure of several grant agreements. Mr. Abtahi will also assist the City with archiving all the project records and setting up processes for the ongoing City maintenance of the project. While he is here, he will continue to coordinate with other City projects that must interface with the Grade Separation Project, such as the

Main Street Village Project, the Warm Springs BART extension, and the SFPUC Pipeline Replacement Project.

To complete the closeout activities, it is anticipated that Mr. Abtahi's services will be required full time through August, and then part time thereafter until the project closeout is complete in October 2010. Mr. Abtahi has agreed to complete this work at his existing rate of \$145 per hour. A \$75,000 contract amendment is required to provide this level of services.

FISCAL IMPACT: Mr. Abtahi's current agreement, including all overhead expenses, calls for an hourly rate of \$145 per hour. Mr. Abtahi has agreed to continue this rate through the completion of the project closeout. Funding for this amendment has been anticipated in the project costs and included in the current project budget (PWC 8156). There is sufficient funding available in the project budget for this amendment. The project is currently projected to be completed approximately \$4 million under budget.

ENVIRONMENTAL REVIEW: Not applicable

ENCLOSURE: None

RECOMMENDATION: Authorize the City Manager or his designee to execute Amendment Number Seven to the Service Agreement for Grade Separation Project Management Services with Abtahi Engineering Management Consultants in an amount not to exceed \$75,000.

***2.7 WASHINGTON BOULEVARD / PASEO PADRE PARKWAY GRADE SEPARATION
CONSTRUCTION MANAGEMENT CONTRACT AMENDMENT**

**Approval of Amendment No. 2 to the Service Agreement with S&C Engineers, Inc., for
\$120,000 for Construction Management Services for the Washington Boulevard / Paseo
Padre Parkway Grade Separation**

Contact Person:

Name:	Afshin Abtahi	Jim Pierson
Title:	Project Manager	Director
Dept.:	Transportation & Operations	Transportation & Operations
Phone:	510-494-4724	510-494-4722
E-Mail:	aabtahi@fremont.gov	jpierson@fremont.gov

EXECUTIVE SUMMARY: The purpose of this report is to request that the City Council authorize the City Manager or his designee to approve Amendment No. 2 to the Professional Services Agreement with S&C Engineers, Inc., for continued construction management services needed during the contractor's remaining activities, including plant establishment and contract closeout activities for the Washington Boulevard/Paseo Padre Parkway Grade Separation Project. This contract amendment will extend S&C Engineers' construction management services through the end of the Grade Separation closeout activities, currently projected to be through October 2010. The contract amendment is not to exceed \$120,000 based on the estimated need for S&C Engineer's services through October 2010.

BACKGROUND: The City entered into a professional services agreement with S&C Engineers, Inc., in July 2004 to provide construction management services for the grade separation project. The City Council amended this agreement once, in March 2008, for a not to exceed contract total of \$8,801,209 through June 2010.

DISCUSSION/ANALYSIS: The Washington Boulevard/Paseo Padre Parkway Grade Separation Project is now essentially complete. The contractor is currently completing the final "punch list" items (correcting or completing minor contract items determined by the City) and completing additional project closure items requested by the City, such as additional fencing to ensure the project is in the best condition possible when the City takes over the project maintenance from the contractor. The contractor is expected to complete these items by the end of July. The contract will remain open until the middle of September, when the plant establishment period ends for the project landscaping. S&C Engineers will provide construction management services for the contractor's remaining activities and then close out the contracts and transfer all project files to the City in October 2010. It is estimated the remaining services to be provided by S&C Engineers will require a \$120,000 contract amendment.

FISCAL IMPACTS: Funding for this amendment has been anticipated in the project costs and included in the current project budget (PWC 8156). There is sufficient funding available in the project budget for this amendment. The project is currently projected to be completed approximately \$4 million under budget.

ENVIRONMENTAL REVIEW: Not applicable.

ENCLOSURE: None.

RECOMMENDATION: Authorize the City Manager or his designee to execute a service agreement amendment with S&C Engineers, Inc., for additional construction management services in an amount of \$120,000, for a new not-to-exceed contract total of \$8,921,209.

***2.8 AGREEMENT WITH THE COUNTY OF ALAMEDA REGARDING COLLECTION OF TAXES AND ASSESSMENTS FOR FISCAL YEAR 2010/11**

Approval of Certification and Mutual Indemnification Agreement with the County of Alameda Regarding Collection of Taxes and Assessments on the Fiscal Year 2010/11 Secured Property Tax Bill

Contact Person:

Name:	Joan A. Borger	Harvey E. Levine
Title:	Assistant City Attorney	City Attorney
Dept.:	City Attorney's Office	City Attorney's Office
Phone:	510-284-4030	510-284-4030
E-Mail:	Jborger@fremont.gov	Hlevine@fremont.gov

Executive Summary: Each fiscal year, the City transmits to the County of Alameda a list of assessments and taxes which the County collects on behalf of the City. For fiscal year 2010/11, the City will include assessments for all local improvement districts, all landscape maintenance districts, the clean water protection fee, the paramedic tax, and the Fire Safety General Obligation Bond Tax. The City is responsible for determining the amount of each assessment or tax in accordance with applicable laws, including the requirements of Proposition 218 (which added Articles XIIC and XIID to the California Constitution).

In order for the County to collect the assessments or taxes on behalf of the City, the County requires the City to sign a "Certification and Mutual Indemnification Agreement" by which the City agrees to protect the County from any legal action based on the City's failure to comply with the provisions added by Proposition 218. In return, the County agrees to collect the assessments and taxes on behalf of the City and the County protects the City from any legal action based on the County's sole negligence in assessing, distributing, or collecting the assessments or taxes.

BACKGROUND: N/A

DISCUSSION/ANALYSIS: N/A

FISCAL IMPACT: N/A

ENVIRONMENTAL REVIEW: N/A

ENCLOSURE: [Draft Resolution](#)

RECOMMENDATION: Adopt resolution approving the certification and mutual indemnification agreement with the County of Alameda, and authorize the City Attorney to sign the agreement on behalf of the City.

***2.9 ASPHALT AND CONCRETE MATERIALS TESTING CONSULTANT SERVICES
CONTRACT FOR 2010 ASPHALT OVERLAY PROJECT
Award Contract for Asphalt and Concrete Materials Testing Consultant Services for 2010
Asphalt Overlay Project to Kleinfelder West, Inc.**

Contact Person:

Name:	Craig Covert	Norm Hughes
Title:	Associate Civil Engineer	City Engineer
Dept.:	Community Development	Community Development
Phone:	510-494-4785	510-474-4748
E-Mail:	ccovert@fremont.gov	nhughes@fremont.gov

Executive Summary: The purpose of this report is to recommend that City Council award a contract to Kleinfelder West, Inc., for asphalt and concrete materials testing consultant services for the 2010 Asphalt Overlay Project. In May 2010, the City issued a Request for Proposals for Asphalt and Concrete Materials Testing Consultant Services for the 2010 Asphalt Overlay Project. A total of four (4) consultant proposal packages were received and evaluated by staff. Based on the results of that evaluation, staff recommends that City Council award the contract for asphalt and concrete materials testing consultant services to Kleinfelder West, Inc., in an amount not to exceed \$250,000.

BACKGROUND: The asphalt and concrete materials testing consultant services contract is used for services for which the City does not have the personnel, expertise or equipment to perform in-house. To obtain the full design service life of public works projects, the task of controlling material quality is receiving greatly increased attention at all levels of government. Due to the greatly increased use of rubberized hot mix asphalt (RHMA), and in recognition of the need for better quality control of all asphalt materials, Caltrans has recently rewritten the specifications for RHMA and the more traditional hot mix asphalt (HMA) material. The City of Fremont is up-to-date in implementing the latest material specifications that place far more emphasis on testing for quality control by contractors and testing for acceptance by agencies. In recognition of obtaining the greatest overall economy in pavement rehabilitation projects, it is acknowledged that the more rigorous materials acceptance requirements have increased the City expenditures for materials testing consultants.

In the past, the City used on-call contracts for materials testing consultants. Due to the size of this asphalt overlay project and the increase in the acceptance testing requirements, staff has determined that use of a project-specific materials testing consultant will be more cost effective and facilitate the materials acceptance and documentation process.

The primary scope of the materials testing consultant's work is as follows:

1. Under the supervision of City construction staff, perform plant inspections of the HMA and RHMA production before it is delivered to the project overlay street sites.
2. At the project overlay street sites, observe field conditions and perform field sampling of HMA, RHMA and concrete materials.
3. Perform laboratory testing of materials and provide prompt reporting of test results to the City.

4. Provide a summary report of the materials testing performed for the 2010 Asphalt Overlay Project.

The City's asphalt (HMA, RHMA) and concrete inspection and testing services for the 2008 and 2009 asphalt overlay projects was provided by Kleinfelder West, Inc. The value of Kleinfelder West, Inc.'s services, used in an on-call capacity for the 2009 asphalt overlay project, amounted to \$275,000 for this type of work. Kleinfelder West, Inc., has performed materials testing consulting services on several other City projects in the past.

DISCUSSION: In May 2010, the City issued a Request for Proposals for HMA, RHMA and concrete material testing consultant services. A total of four proposal packages were received from the following consultant firms:

- Kleinfelder West, Inc.,
- Signet Testing Labs, Inc.
- Construction Testing Services
- Engeo Incorporated

Three other firms were solicited for this work, but declined to submit a package due to the lack of staff needed to fulfill this type of contract. An evaluation panel comprised of City staff reviewed all firms based on the proposals submitted. Consultants were ranked based on the following criteria:

- Overall and local project experience on similar contracts.
- Understanding of the City's project needs and requirements
- Key staff members and their availability.
- The overall quality of the submittal package.

The result of the evaluation showed Kleinfelder West, Inc., ranked as the top firm. Kleinfelder West, Inc., is experienced in this type of work, is a responsible consultant, and has satisfactorily provided HMA, RHMA and concrete materials testing consultant services on recent City projects.

Staff recommends contracting for the material testing consulting services with Kleinfelder West, Inc. The contract would be awarded in a not-to-exceed amount of \$250,000, and will be closed out concurrent with the close-out of the 2010 Asphalt Overlay Project in approximately January 2011.

FUNDING: The work performed under the HMA, RHMA and Concrete Material Testing Consultant Services contract will be funded by the Asphalt Overlay Project, PWC 8234.

ENCLOSURE: None

RECOMMENDATION: Authorize the City Manager or his designee to execute a Master Service Agreement with Kleinfelder West, Inc., for asphalt and concrete materials testing consultant services for the 2010 Asphalt Overlay Project in an amount not to exceed \$250,000.

***2.10 FREMONT MAIN LIBRARY REROOF PROJECT CONTRACT AWARD**

Approval of Plans and Specifications and Award of Contract to the Lowest Responsible Bidder for the Fremont Main Library Reroof Project, City Project No. PWC 8712

Contact Person:

Name:	Robert Kalkbrenner	Dan Schoenholz
Title:	Civic Facilities Development Services Manager	Policy and Special Projects Manager
Dept.:	Community Development	Community Development
Phone:	510-494-4428	510-494-4438
E-Mail:	rkalkbrenner@fremont.gov	dschoenholz@fremont.gov

Executive Summary: Staff recommends that the City Council approve the plans and specifications for the Fremont Main Library Reroof Project (City Project No. 8712 PWC) and award an \$874,795 construction contract to Best Contracting Services, Inc.

BACKGROUND: The Fremont Main Library was built in the late 1980s, and its roof is in need of repair to reduce ongoing maintenance costs and to prevent rainwater intrusion that could damage the tenant's (Alameda County's Main Library and Administrative Offices) equipment and books. In June 2009, the City Council approved application of \$900,000 in Energy Efficiency and Conservation Block Grants (EECBG) to the Alameda County Library Zero Net Energy Project. The project includes the City installing a "cool roof" and the County implementing interior energy efficiency improvements and installing roof top solar panels. This agenda item fulfills the City's commitment to reroof the Library. The use of these federal funds, leverages \$200,000 in PWC 8712 to design and construct the improvements. The design team prepared plans and specifications during the rainy season, and targeted summer 2010 for construction.

PROJECT DESCRIPTION: The work includes removal of the existing built-up roofing and installation of a new roof system, including limited repair of lightweight insulating concrete, new insulation, and provision for a single-ply thermoplastic membrane qualified as a 20-year warranted "cool roof." The City has worked with the Library's facilities representative for construction coordination purposes.

County Installation of Energy Efficiency Measures and Photovoltaic System

As part of the shared City and County goal of making the library a model "green" or zero net energy facility, the Alameda County General Services Agency has been notified by the California Energy Commission that they will be conducting an energy efficiency and solar evaluation of the building. The evaluation (funded by the California Energy Commission) is expected to begin in the next several weeks (see attached Letter of Interest). The County will then secure the necessary financing and install those upgrades meeting their cost-effectiveness standard (a 12-year simple payback). This may or may not include rooftop solar, depending on the results of the evaluation. However, in anticipation that solar will prove cost effective, the design team collaborated with the Alameda County General Services Administration (GSA) to incorporate details for stub-ups necessary for power associated with the rooftop solar system. Assuming the County does move forward with solar, the City and County will develop a memorandum of understanding (MOU) to plan for each entity's respective responsibilities,

including protecting the roof surface and warranty, and dealing with liability issues related to the addition of the solar panels. The County anticipates that solar installation would be complete within two years of roof replacement.

CONTRACT DURATION: The contract documents stipulate that the work is to be performed and substantially completed in 90 calendar days. The contract also includes a provision for liquidated damages of \$750 per calendar day for the contractor's failure to complete the work within the specified time. Staff recommends that the City Council approve these conditions.

DISCUSSION: The bid documents for the Fremont Main Library Reroof were advertised on April 14, 2010. Bids were opened on May 19, 2010, and 10 bids were received. The bid results range from \$874,795 to \$1,097,600. The engineer's estimate was \$875,000. The bidders with their respective bid amounts are shown below:

<u>Contractor</u>	<u>Bid Amount</u>	<u>Rank</u>
BEST Contracting Services	\$874,795	1
Fidelity Roof Company	879,060	2
Petersen Dean Commercial	887,990	3
F. Rodgers	913,937	4
Pioneer Construction	968,000	5
Waterproofing Associates	984,680	6
Kodiak Union Roofing	997,173	7
Progressive Roofing	1,053,800	8
IMR Contracting	1,070,300	9
California Roofing	1,097,600	10

BUDGET: The original project budget of \$1.3 million for City Project No. PWC8712 was approved by City Council on June 9, 2009, as part of the FY 2009/10 – 2013/14 Capital Improvement Plan (CIP). This budget was funded by an initial allocation of \$200,000 in FY 2009/10, and \$1.1 million was programmed for appropriation in FY 2011/12.

In November 2009, the City received EECBG Program funding of \$900,000 for use in the reroof component of the Zero Net Energy Library project. There is sufficient funding to complete the re-roofing project. Receipt of federal funds and design and construction savings will facilitate completion of the library reroof two years ahead of the original schedule, at a savings of \$900,000 to the Capital Improvement Fund.

ENVIRONMENTAL IMPACT: This project is categorically exempt from CEQA per section 15301, existing facilities.

DESIGN CONSULTANTS: Allana Buick & Bers, Inc.

ENCLOSURES:

- [Letter of Intent from Aki Nakao, dated June 21, 2010](#)
- [Fremont Main Library Reroof Plans](#)

RECOMMENDATIONS:

1. Find that this project is categorically exempt from CEQA per section 15301, existing facilities.
2. Approve Plans and Specifications for the Fremont Main Library Reroof Project.
3. Award a contract for the Fremont Main Library Reroof Project (City Project No. PWC 8712) to Best Contracting Services, Inc., in the amount of \$874,795; and authorize the City Manager, or designee, to execute the contract.

***2.11 2010 ASPHALT OVERLAY PROJECT CONTRACT AWARD**

Approval of Plans and Specifications and Award of Contract to the Lowest Responsible Bidder for the 2010 Asphalt Overlay, City Project No. 8234-J (PWC)

Contact Person:

Name:	Craig Covert	Norm Hughes
Title:	Associate Civil Engineer	City Engineer
Dept.:	Community Development	Community Development
Phone:	510- 494-4785	510-474-4748
E-Mail:	ccovert@fremont.gov	nhughes@fremont.gov

Executive Summary: The purpose of this report is to recommend that City Council approve the plans and specifications for the 2010 Asphalt Overlay, City Project No. 8234-J (PWC), accept the bid and award the contract for construction to Gallagher and Burk, Inc., in the amount of \$5,093,093.

BACKGROUND: The City's Engineering and Street Maintenance divisions jointly operate a pavement management system (PMS) that tracks street surface conditions and recommends annual resurfacing and rehabilitation actions for cost-effective maintenance of the City's streets. The PMS recommends the following two classes of treatments:

- Preventive maintenance treatments, such as slurry seals, chip seals and cape seals, that improve the pavement surface and extend pavement life at a relatively low cost, and
- Rehabilitation treatments, such as overlays and pavement reconstruction, that restore a worn pavement to full serviceability at a relatively high cost by correcting the unavoidable deterioration of pavements caused by age, truck traffic, sunlight, rain and irrigation water.

The 2010 Asphalt Overlay, City Project No. 8234-J (PWC), will rehabilitate a total of eleven (11) City street sections totaling approximately 132,000 square yards of pavement surface. Below are the locations for this project:

No.	Name of Street	Begin Location	End Location
1	Auto Mall Pkwy. (W/B)	Christy St.	Pacific Commons Blvd.
2	Blacow Road	Roberts Ave.	Fremont Blvd.
3	Roberts Ave.	Washington Blvd.	Blacow Rd.
4	Mowry Ave.	Fremont Blvd.	Paseo Padre Pkwy.
5	Paseo Padre Pkwy	Commerce Dr.	Ardenwood Blvd.
6	Paseo Padre Pkwy	Deep Creek Rd.	Siward Dr.
7	Paseo Padre Pkwy (S/B)	Fremont Blvd.	Siward Dr.
8	Paseo Padre Pkwy (N/B)	Fremont Blvd.	Langhorn Dr.
9	Stevenson Blvd.	Blacow Rd.	Besco Dr.
10	Stevenson Blvd. (E/B)	Besco Dr.	Davis St.
11	Thornton Ave. (W/B)	Paseo Padre Pkwy.	Fremont Blvd.

Staff retained the services of Nichols Consulting Engineers (Nichols) and Kleinfelder to perform testing on the existing pavement sections and to determine the appropriate rehabilitation strategies necessary to obtain a 20-year useful pavement life. The consultants' recommendation was to overlay the streets with 2 to 4 inches of conventional hot mix asphalt and/or rubberized hot mix asphalt. On selected street sections, the recommendation was to also grind off the existing pavement surface course prior to placement of the overlay. In addition, at localized areas where it is apparent the pavement base material has failed, areas of pavement will be removed and replaced with up to 14 inches of hot mix asphalt.

Rubberized Hot Mix Asphalt: As in previous years, Rubberized Hot Mix Asphalt (RHMA) will be used as the final wearing surface on the streets in this year's overlay project, as recommended by Nichols. RHMA has a long history of successful application on city streets and state highways throughout California. The advantages of RHMA over conventional hot mix asphalt are well documented and include a quieter riding surface and a greater resistance to reflective cracking. This ensures the pavement will last longer and require less maintenance over the life of the pavement, thereby reducing the total life-cycle cost. In addition, RHMA reduces the stockpiling of waste tires and the number of waste tires that enter landfills for disposal by, instead, recycling and grinding the tires into crumb rubber granules and mixing them with asphalt cement and aggregate. A typical two-inch rubberized hot mix asphalt resurfacing project uses over 2,000 waste tires per lane mile. This project will divert approximately 25,000 tires from entering California landfills.

Rubberized Asphalt Concrete Grant: On November 4, 2008, the City Council adopted a resolution authorizing staff submittal of applications to the California Environmental Agency's Integrated Waste Management Board (CIWMB) for the Rubberized Asphalt Concrete Incentive Grant Program. In November 2008, staff applied for a Targeted Rubberized Asphalt Concrete (RAC) grant in the amount of \$194,080. On May 19, 2009, the CIWMB awarded the grant in said amount, with the stipulation that the funds be used for overlay projects that can be completed by April 1, 2012. As this grant is based on the tonnage of rubberized asphalt overlay used on a project, staff anticipates that \$140,000 of this grant can be applied for this year's overlay project. Staff anticipates using the remaining grant amount on future overlay projects within the required deadline from CIWMB.

Traffic Control: Due to the size, scope and number of streets included in this project, staff anticipates that residents and the traveling public will experience some inconvenience during construction. Individual traffic lanes will be closed to traffic in order to facilitate paving operations. To mitigate the impact of traffic delays on the public, the contractor must provide definitive traffic control plans. City staff will review all traffic control plans prior to construction and monitor traffic control work during construction to ensure all possible effort is made to minimize the impact to the public. Advance construction message signs informing the public of the upcoming roadway construction will be posted before each work zone a minimum of seven days prior to the anticipated construction. The signs will advise the public of possible delays due to construction and list the anticipated dates of work specific for each street. In addition, each affected business or residence will receive a flyer describing the project and required parking restrictions at least two weeks before work begins in their area. Follow-up notices will again be distributed no later than two days prior to the start of construction.

During construction, electronic changeable message boards as well as temporary construction signs will be positioned in advance of the construction work zone at major cross streets alerting the public of the roadwork ahead and potential delays.

Pavement overlay work within the intersections of Auto Mall Parkway with Christy Street and Pacific Commons Boulevard will be limited to the hours between 10:00 PM and 4:00 AM Monday through Thursday. During this time, the intersection will be shut down to expedite paving operations and traffic will be detoured around the intersection. The night work will eliminate the impact to the motoring public during the days, when traffic volumes are greater. Signs informing the public of the intersection closure will be posted at least seven days in advance of the scheduled work. Businesses and residents near this intersection will also be notified at least one week prior to the closure.

Concrete Construction: The project will remove and replace several sections of concrete curb and gutter that have been damaged by the roots of adjacent trees, and upgrade or construct new intersection curb ramps and island passageways conforming to the guidelines of the Federal Americans with Disabilities Act (ADA) and State accessibility requirements. The project will also construct new concrete bus pads conforming to the latest City standards within the project limits. The concrete bus pads will eliminate the pavement deterioration due to the heavy loads imposed by the stopping and starting of buses at the bus stops. In order to provide a uniform edge to which to pave to, repair of all concrete curb and gutter sections and construction of all curb ramps and bus pads will need to be completed prior to the start of paving activities.

The 2010 Overlay Project will upgrade 9 existing curb ramps and 17 island passageways and construct 53 new curb ramps and a total of 17 new bus pads within the project limits.

DISCUSSION:

Bid Results: Bids were received on June 22, 2010 for the 2010 Asphalt Overlay, City Project No. 8234-J (PWC). The project's total bid is for eleven (11) street segments. Bids were received, as follows:

<u>BIDDER</u>	<u>TOTAL BID</u>
Gallagher & Burk, Inc.	\$ 5,093,093.00
Granite Construction Company	\$ 5,328,835.85
Bay Cities Paving & Grading, Inc.	\$ 5,643,271.14
Granite Rock Company dba Pavex Construction Division	\$ 6,041,075.30
O'Grady Paving, Inc.	\$ 6,628,864.35*
<hr/>	
Engineer's Estimate	\$ 5,800,000.00

*Mathematically corrected bid

The low monetary bidder, Gallagher and Burk, Inc., is experienced in this type of project and is a responsible contractor.

PROJECT COSTS: The following is a summary of total estimated costs for construction:

Staff – Design/Design Administration (4,500 hours)	\$ 590,000.00
Pavement Design Consultant (Nichols Engineering)	\$ 75,000.00
Pavement Design Consultant (Kleinfelder)	\$ 75,000.00
Construction Cost (Includes \$500,000 in contingency)	\$ 5,093,093.00
Staff - Construction Mgt. & Inspection (5,500 hours)	\$ 580,000.00
Materials Testing Consultant (Kleinfelder)	\$ 250,000.00
Project Contingency	<u>\$ 300,000.00</u>
Total Estimated Construction Costs	\$ 6,963,093.00

FUNDING: Funding available under PWC 8234 for the project is as follows:

Fund 131 State Gas Tax 2107	\$ 116,570
Fund 132 State Gas Tax 2106	\$ 439,000
Fund 142 State Gas Tax 2105	\$ 1,811,500
Fund 508 ACTIA Measure B (Local Streets & Roads)	\$ 2,014,483
Fund 525 CIWMB RHMA Grant	\$ 140,000
Fund 526 Proposition 42	\$ 864,000
Fund 527 Proposition 1B	<u>\$ 2,826,706</u>
Total Estimated Available Funding	\$ 8,212,259

Based on the contract amounts and project cost estimates, there are sufficient funds budgeted for this project. The remaining funds will be used for subsequent pavement rehabilitation projects, the next of which is scheduled for construction in spring 2011.

ENVIRONMENTAL: This project is categorically exempt under Section 15301 (c) of the Guidelines for the California Environmental Quality Act. Staff has filed the notice with the Alameda County Recorder's Office.

ENCLOSURE: None

RECOMMENDATIONS:

1. Approve the plans and specifications for 2010 Asphalt Overlay, City Project No. 8234-J (PWC).
2. Accept the bid and award the construction contract for 2010 Asphalt Overlay, 8234-J (PWC) to the lowest responsible bidder, Gallagher and Burk, Inc., in the amount of \$5,093,093 and authorize the City Manager or designee to execute the contract.
3. Appropriate CIWMB rubberized asphalt concrete grant funds in the amount of \$194,080 to 525 PWC8234 (Street Overlay Program)

***2.12 EAST BAY REGIONAL PARK DISTRICT HOLD HARMLESS AGREEMENT**
Authorize City Manager to Execute a Hold Harmless Agreement To Allow The Fire Department To Use East Bay Regional Park District Property For Training Purposes

Contact Person:

Name:	Ron Maize	Bruce Martin
Title:	Deputy Fire Chief	Fire Chief
Dept.:	Fire	Fire
Phone:	510-494-4253	510-494-4200
E-Mail:	rmaize@fremont.gov	bmartin@fremont.gov

Executive Summary: Staff requests that the City Council authorize the City Manger to execute a hold harmless agreement with the East Bay Regional Park District. The agreement will allow the Fire Department to conduct training activities on the Park District's property.

BACKGROUND: The Fremont Fire Department has historically conducted training exercises on East Bay Regional Park property. These training exercises prepare Fire Department emergency workers for wildland firefighting, rope rescue, and search and rescue responses. To date, the Fire Department's use of Park District property has not caused injury to persons or damage to the property.

The Park District has adopted a special permitting process to manage requests for use of the District's property. The new process requires that the requestor agree to fully indemnify the Park District for any damages or injuries arising from the Fire Department's training activities on Park District property. City Council approval is required to execute the agreement as the indemnity requirement exposes the city to liability possibly in excess of \$100,000.

DISCUSSION/ANALYSIS: Execution of the agreement will allow the Fire Department to continue using Park District property for training sites and will provide new opportunities on Quarry Lakes Reservoir for water rescue training. Access to train on Quarry Lakes is particularly helpful as the Fire Department responds to calls at Quarry Lakes, and water rescue training on location will enhance the Fire Department's training program and operational readiness. If the Fire Department's training activities on Park District property caused personal injury or property damage, the hold harmless agreement could require the City to pay the full amount of any such damages and to defend the Park District if sued by persons injured by Fire Department's training activities.

FISCAL IMPACT: The likelihood that execution of this agreement will expand the City's liability in the event of an accident is remote.

ENVIRONMENTAL REVIEW: The agreement is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment.

ENCLOSURE: [Draft agreement between East Bay Regional Park District and the City of Fremont](#)

RECOMMENDATION: Authorize the City Manager to execute the Hold Harmless Agreement with the East Bay Regional Bay Park District.

5.1 PROPOSAL FOR REGIONAL PENSION REFORM

Information regarding the Proposal for Regional Pension Reform from the Alameda County City Managers Association and the Contra Costa County Public Managers Association

Contact Person:

Name:	Mary Kaye Fisher	Melissa Stevenson Dile
Title:	Interim Director	Assistant City Manager
Dept.:	Human Resources	City Manager's Office
Phone:	510-494-4664	510-284-4005
E-Mail:	mkfisher@fremont.gov	mdile@fremont.gov

Executive Summary: After reviewing the work on public employee pension reform completed by city management associations from throughout the state, the Alameda County City Managers Association in conjunction with the Contra Costa County Public Managers Association established a joint working group which studied the issue and established the enclosed Proposal for Regional Pension Reform. The proposal recommends that cities within the region work toward having employees pay for a portion of their pensions and that new pension tiers be created for city employees hired after the reforms are negotiated by the respective cities with their individual bargaining units.

DISCUSSION/ANALYSIS: For more than 70 years, the State of California and local governments have offered a “defined benefit” retirement plan to employees. Retirement formulas are a combination of employee age, years of public service, and single highest year of salary. Fremont safety personnel are currently under the “3% @ 50” retirement formula, making them eligible for retirement at age 50. Miscellaneous employees are currently under the “2.5% @ 55” formula, making them eligible for retirement at age 55. The formulas mean that employees’ pensions are calculated by multiplying their years of service by either 3% or 2.5% and then multiplying by their highest annual salary. All of the retirement formulas are legislatively adopted and agencies contract with the California Public Employees Retirement System (CalPERS) for retirement administration. As a result of excellent returns on investments in the 1990s, the retirement system was sufficiently funded so that employers were allowed to make little or no contribution to the system for several years. Therefore, in 1999 the State of California adopted enhanced retirement benefits for state employees, which resulted in a corresponding demand by local agency employees to receive the same enhancements. As part of the bargaining process, Fremont agreed to the enhanced formulas in 2001 (for safety employees) and 2002 (for miscellaneous employees), as did most local agencies.

In Alameda County, all municipalities belong to CalPERS, which administers the retirement plans and manages the retirement system. However, since 2004, as a result of the “dot-com bust,” and again in 2008, due to the global recession, the steep drop in investment returns and actual investment losses have resulted in steadily increasing CalPERS rates for member agencies. As the rates continue to climb higher each year, it is becoming increasingly evident that the retirement plans, as presently configured, are not financially sustainable.

The goals of pension reform are to provide future employees with an appropriate pension upon retirement after a career in public service, and to have all employees pay for a portion of the benefit

during their public employment career. The benefit level should be fair and adequate, but fiscally sustainable for employers and taxpayers. The regional proposal suggests that a fair and adequate pension formula would be 2% @ 50 for safety personnel and 2% @ 60 for miscellaneous employees and that the amount be dependent upon an average of the highest three years of compensation.

FISCAL IMPACT: Establishing a tier for new employees that provides a different retirement formula would not result in immediate savings for agencies; however, it would provide a sustainable and affordable retirement plan for employees of local government. Negotiating with existing employees to fund a portion of their pensions through direct payroll contributions would result in immediate savings for public agencies. In Fremont, this change was made in 1994, and employees have been paying their own contributions to CalPERS since then, resulting in significant savings to the City. Even though the cities within the Alameda/Contra Costa region will not be able to make reform changes at the same time due to the timing of bargaining unit negotiations in different agencies, the regional approach will help minimize regional disparities in benefits provided to new employees.

ENCLOSURE: [Proposal for Regional Pension Reform](#)

RECOMMENDATION: For Council Discussion

6.1 Report Out from Closed Session of Any Final Action

8.1 Council Referrals

8.1.1 MAYOR WASSERMAN REFERRAL: Appointment of Ira Bletz to the George W. Patterson House Advisory Board

Appointment:

<i>Advisory Body</i>	<i>Appointee</i>	<i>Term Expires</i>
George W. Patterson House Advisory Board	Ira Bletz (East Bay Regional Park Rep.)	N/A

ENCLOSURES: [Letter from Doug Siden, EBRPD President, Board of Directors](#)

8.1.2 MAYOR WASSERMAN REFERRAL: Appointment of Peggy Kraus to the Economic Development Advisory Board

Appointment:

<i>Advisory Body</i>	<i>Appointee</i>	<i>Term Expires</i>
Economic Development Advisory Board	Peggy Kraus (Commercial/Industrial Rep.)	December 31, 2013

ENCLOSURES: [Commission Application](#)

8.1.3 MAYOR WASSERMAN REFERRAL: Update to Council Assignments to Outside Commissions, Committees or Boards

ENCLOSURES:

- [Draft Resolution](#)
- [Mayor and City Councilmember Assignments \(2009-2011\)](#)

RECOMMENDATION: Adopt a resolution designating Council assignments to outside committees, commissions, and boards. This resolution modifies and replaces the resolution adopted by the Council on February 23, 2010

8.2 Oral Reports on Meetings and Events

ACRONYMS

ABAG.....	Association of Bay Area Governments	FUSD	Fremont Unified School District
ACCMA	Alameda County Congestion Management Agency	GIS	Geographic Information System
ACE.....	Altamont Commuter Express	GPA.....	General Plan Amendment
ACFCD.....	Alameda County Flood Control District	HARB	Historical Architectural Review Board
ACTA	Alameda County Transportation Authority	HBA	Home Builders Association
ACTIA.....	Alameda County Transportation Improvement Authority	HRC	Human Relations Commission
ACWD.....	Alameda County Water District	ICMA	International City/County Management Association
BAAQMD	Bay Area Air Quality Management District	JPA	Joint Powers Authority
BART	Bay Area Rapid Transit District	LLMD	Lighting and Landscaping Maintenance District
BCDC	Bay Conservation & Development Commission	LOCC.....	League of California Cities
BMPs	Best Management Practices	LOS	Level of Service
BMR	Below Market Rate	MOU	Memorandum of Understanding
CALPERS.....	California Public Employees' Retirement System	MTC.....	Metropolitan Transportation Commission
CBD.....	Central Business District	NEPA	National Environmental Policy Act
CDD.....	Community Development Department	NLC.....	National League of Cities
CC & R's	Covenants, Conditions & Restrictions	NPDES.....	National Pollutant Discharge Elimination System
CDBG.....	Community Development Block Grant	NPO.....	Neighborhood Preservation Ordinance
CEQA	California Environmental Quality Act	PC.....	Planning Commission
CERT.....	Community Emergency Response Team	PD	Planned District
CIP	Capital Improvement Program	PUC.....	Public Utilities Commission
CMA	Congestion Management Agency	PVAW.....	Private Vehicle Accessway
CNG.....	Compressed Natural Gas	PWC.....	Public Works Contract
COF	City of Fremont	RDA	Redevelopment Agency
COPPS.....	Community Oriented Policing and Public Safety	RFP	Request for Proposals
CSAC.....	California State Association of Counties	RFQ.....	Request for Qualifications
CTC	California Transportation Commission	RHNA	Regional Housing Needs Allocation
dB	Decibel	ROP.....	Regional Occupational Program
DEIR.....	Draft Environmental Impact Report	RRIDRO	Residential Rent Increase Dispute Resolution Ordinance
DO	Development Organization	RWQCB	Regional Water Quality Control Board
DU/AC.....	Dwelling Units per Acre	SACNET	Southern Alameda County Narcotics Enforcement Task Force
EBRPD	East Bay Regional Park District	SPAA	Site Plan and Architectural Approval
EDAC	Economic Development Advisory Commission (City)	STIP	State Transportation Improvement Program
EIR.....	Environmental Impact Report (CEQA)	TCRDF.....	Tri-Cities Recycling and Disposal Facility
EIS	Environmental Impact Statement (NEPA)	T&O	Transportation and Operations Department
ERAF.....	Education Revenue Augmentation Fund	TOD	Transit Oriented Development
EVAW	Emergency Vehicle Accessway	TS/MRF	Transfer Station/Materials Recovery Facility
FAR	Floor Area Ratio	UBC	Uniform Building Code
FEMA.....	Federal Emergency Management Agency	USD.....	Union Sanitary District
FFD.....	Fremont Fire Department	VTa	Santa Clara Valley Transportation Authority
FMC.....	Fremont Municipal Code	WMA	Waste Management Authority
FPD.....	Fremont Police Department	ZTA.....	Zoning Text Amendment
FRC.....	Family Resource Center		

**UPCOMING MEETING AND CHANNEL 27
BROADCAST SCHEDULE**

<i>Date</i>	<i>Time</i>	<i>Meeting Type</i>	<i>Location</i>	<i>Cable Channel 27</i>
July 13, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
July 20, 2010	6:00 p.m.	Work Session	Council Chambers	Live
July 27, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
		August Recess		
September 7, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
September 14, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
September 21, 2010	TBD	Work Session	Council Chambers	Live
September 28, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 5, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 12, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 19, 2010	TBD	Work Session	Council Chambers	Live
October 26, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 2, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 9, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 16, 2010	TBD	Work Session	Council Chambers	Live
November 23, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 30, 2010 (5 th Tuesday)		No City Council Meeting		